



U.S. Department of Justice
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Southern District of Ohio

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October 11, 2017

Paul T. Farrell, Esq.
Greene, Ketchum, Farrell, Bailey & Twell, LLP
419 11th Street, P.O. Box 2389
Huntington, WV 25724-2389

Re: Your October 2, 2017 letter to DEA

Dear Mr. Farrell:

Your October 2, 2017 letter to the Alan Drumheller, Automated Records and Consolidated Orders System (ARCOS) Unit Chief of DEA was referred to me for a response.

As a preliminary matter, be advised that DEA filed a notice with the Court related to the Preservation Order issued on October 4, 2017. DEA advises in the notice that it has no current plans to delete or otherwise destroy any data on the ARCOS database. DEA currently maintains data starting in 2006.

In the Court's Pretrial Order No. 1 (Doc. 47), filed on October 3, 2017 (after your letter to the DEA was drafted), the Court "denied the plaintiffs' request to issue a subpoena to the DEA," based on the Court's agreement with the defendants that "discovery at this point is premature." As you know, the Department of Justice's Touhy regulations, 16 C.F.R. § 16.21 et seq., set forth the procedures to be followed in proceedings in which the United States is not a party, when a subpoena, order, or other demand (hereinafter collectively referred to as a "demand") of a court or other authority is issued..."

Given the Court's determination that discovery at this point is premature, your demand to access the entirety of the data in ARCOS is not "appropriate under the rules of procedure governing the case...in which the demand arose." 28 C.F.R. § 16.26(a)(1). Accordingly, the DEA refuses your demand for ARCOS data and does not consent to your request to appear at the next status conference.

Very truly yours,

BENJAMIN C. GLASSMAN
United States Attorney

A handwritten signature in black ink, appearing to read "Mark T. D'Alessandro".

Mark T. D'Alessandro
Assistant United States Attorney